

A legal settlement is not generally considered a transfer or sale of tangible personal property in this State and would not be subject to either Retailers' Occupation Tax or Use Tax liability. See 35 ILCS 120/2. (This is a GIL).

October 5, 2000

Dear Xxxxx:

This letter is in response to your letter dated July 27, 2000. The nature of your letter and the information you have provided require that we respond with a General Information Letter, which is designed to provide general information, is not a statement of Department policy and is not binding on the Department. See 2 Ill. Adm. Code 1200.120 subsections (b) and (c), which can be found at <http://www.revenue.state.il.us/legalinformation/regs/part1200>.

In your letter, you have stated and made inquiry as follows:

COMPANY is headquartered in CITY/STATE and is in the Management Training and Education business. COMPANY authors, copyrights and trademarks, books and manuals and assessment tools that are used in our Management Training Seminars as well as sold to the general public. Our customers are small and large companies that hire us to conduct Management Training Seminars at their locations in their state or country. We have discovered that there are organizations and individuals who are 'using' our intellectual property without our consent. The usual manner of settlement is a lump sum payment to COMPANY for past use of our intellectual property and a contract for future use of our material either by the purchase of product or a licensing agreement is signed or a reprint right is sold.

We are writing to you for clarification on how to handle the taxation on the lump sum payment for the past use of our intellectual property. These payments are either settlements in lieu of a formal lawsuit or they are as a result of a lawsuit.

Please use the enclosed self-addressed envelope to reply to us. Thank you in advance for your help with this matter

We are answering your letter regarding any sales and use tax liability your company may incur in Illinois under the scenario set out in your letter. The Income Tax Division of our office will be sending you a separate letter regarding any Illinois Income Tax liability your company may incur in Illinois.

October 5, 2000

Illinois taxes the retail sale and use of tangible personal property under two separate but related statutes. The Retailers' Occupation Tax Act imposes a tax upon persons engaged in the business of selling at retail tangible personal property. 35 ILCS 120/2 (1998 State Bar Edition). The Use Tax Act imposes a tax upon the privilege of using in this State tangible personal property purchased anywhere at retail from a retailer. 35 ILCS 105/3 (1998 State Bar Edition). These taxes comprise what is commonly known as "sales" tax in Illinois. A legal settlement is not generally considered a transfer or sale of tangible personal property in this State and would not be subject to either Retailers' Occupation Tax or Use Tax liability.

I hope this information is helpful. The Department of Revenue maintains a website, which can be accessed at www.revenue.state.il.us. If you have further questions related to the Illinois sales tax laws, please contact the Department's Taxpayer Information Division at (217) 782-3336.

If you are not under audit and you wish to obtain a binding Private Letter Ruling regarding your factual situation, please submit all of the information set out in items 1 through 8 of Section 1200.110(b) described above.

Very truly yours,

Terry D. Charlton
Associate Counsel

TDC:msk